

1 **RICHARD A. SMITH, WSBA 15127**  
2 **SMITH LAW FIRM**  
3 **314 No. Second Street**  
4 **Yakima, WA 98901**  
5 **Telephone: 509-457-5108**

6  
7 Attorneys for Defendant  
8 Juan Bravo Zambrano  
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11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE EASTERN DISTRICT OF WASHINGTON**  
13 **(Honorable Edward F. Shea)**

14 UNITED STATES OF AMERICA, ) NO. 4:15-cr-06049-EFS-19  
15 Plaintiff, )  
16 vs. ) REPLY TO GOVERNMENT'S  
17 ) RESPONSE [ECF 648] TO  
18 JUAN BRAVO ZAMBRANO, ) DEFENDANT'S MOTION TO  
19 Defendant. ) SUPPRESS [ECF 621]  
20 )  
21

22 **TO: Clerk, U.S. District Court, Eastern District of Washington; and**  
23 **TO: Stephanie A. Van Marter, Assistant United States Attorney.**  
24

25 **COMES NOW** JUAN BRAVO ZAMBRANO, by and through his attorney of  
26 record, Richard A. Smith of *Smith Law Firm*, and submits his reply to the  
27 Government's response to Defendant's motion to suppress [ECF 621].  
28  
29

30 REPLY TO GOVERNMENT'S RESPONSE [ECF 648] TO  
31 DEFENDANT'S MOTION TO SUPPRESS [ECF 621] - Page 1

**SMITH LAW FIRM**  
314 North Second Street  
Yakima, WA 98901  
(509) 457-5108

1 **A. The DEA and RCMP were engaged in a joint venture to investigate the**  
2 **Cavillo DTO.**

3 The Government argues that a cash drop occurred on August 21, 2015, that  
4 was observed and recorded by the RCMP but that all actions that took place after the  
5 cash drop were wholly directed by the RCMP therefore Mr. Zambrano has no  
6 standing to challenge the unlawful stop on August 26, 2015 of the Mercedes vehicle  
7 in which he was a passenger.  
8

9 In its memorandum the Government admits that RCMP was assisting the  
10 United States in “the cash money drop and the money laundering aspects of the  
11 investigation” [ECF 648, page 6, lines 14-15]. The Government argues that any  
12 further or continuing investigation should not be considered by this Court, essentially  
13 viewing the cash money drop as an isolated incident of cooperation between the DEA  
14 and the RCMP.  
15

16 In the Affidavit in Support of the Search Warrant for the Zambrano residence  
17 at [REDACTED], Benton City, Washington,  
18 executed on December 15, 2016, Agent Stanley stated:  
19

20 “In approximately the Spring of 2014 a companion investigation was  
21 initiated by a DEA undercover task force relative to the money  
22 laundering activities of this DTO.”

23 Agent Stanley then states how, as part of this money laundering investigation, Juan  
24 Zambrano was identified by two cooperating defendants who testified before the  
25 Grand Jury as a member of this drug trafficking organization who was initially  
26 identified as a backpacker. (BN 1008) Although the statement is false that Mr.  
27 Zambrano was identified in any regard by two cooperating defendants, the fact  
28  
29

1 remains the alleged backpacking of money and drugs into Canada was part and parcel  
2 of the joint investigation.

3       DEA reports recording the investigation and its targets and status document a  
4 joint operation, not only as between DEA and RCMP but the interrelationship  
5 between the money laundering and drug trafficking. (See attached BN 10000104  
6 [attached as Attachment A] ... “over the course of several months undercover agents  
7 from the Boston Field Division [BFD] Drug Enforcement Administration [DEA] and  
8 Vancouver Royal Canadian Mounted Police [RCMP] have been negotiating for the  
9 delivery of a large shipment of heroin to the Seattle, Washington area.”)

10  
11  
12       In discovery provided, BN 10001830-10001842 (attached as Attachment B), the  
13 Affidavit of RCMP Officer Jessica Maclean, she states that “This is an investigation  
14 into the offenses of possession of proceeds of crime, money laundering and trafficking  
15 in control substances”. Her report documents the investigation of the cash money  
16 drop, surveillance of Sobeida Reynoso, Javier Calvillo and subsequent arrest of Juan  
17 Zambrano.  
18

19       The money laundering investigation naturally included the drug trafficking  
20 investigation conducted jointly between the law enforcement agencies of the United  
21 States and the RCMP.  
22

23       Although Defendant Zambrano, through his attorney and consistent with the  
24 discovery provided to date, argues that the DEA was engaged with the RCMP in a  
25 joint venture, just prior to the filing deadline for the Defendant’s reply, the  
26 Government disclosed a document under seal titled “Information to Obtain”. This  
27 document is in essence an application for a search warrant for room 203 and 204 of  
28 the Ramada Inn and for the Mercedes-Benz. Among other things the document  
29

1 identifies the initiation and chronology of the cooperation and joint venture between  
2 the DEA and the RCMP.

3 Defendant Zambrano references the sealed attachments provided by the  
4 Government here to support his argument that the DEA and RCMP worked together  
5 in this investigation. However, the Defendant has not had sufficient time to review  
6 this new discovery to determine if additional motions are appropriate or required.  
7

8 The present case is similar to other cases in which a “joint venture” has been  
9 found. In *United States v. Emery*, 591 F.2d 1266 (9<sup>th</sup> Cir. 1978), a joint venture was  
10 found because the DEA tipped the Mexican authorities to a possible smuggling  
11 transaction to take place in Mexico. The DEA also planted an undercover operative  
12 with the suspected narcotic trafficker. Here, the Canadian government planted an  
13 undercover operative to obtain proceeds of the drug trafficking organization  
14 transportation of drugs into Canada and which was being investigated in the United  
15 States of America.  
16  
17

18 In *United States v. Peterson*, 812 F.2d 486 (9<sup>th</sup> Cir. 1987), a joint venture was  
19 found because the DEA roll was not subordinate to that of the Philippine police.  
20 Here, the benefits of evidence from the investigation including cash transactions and  
21 drug evidence were all delivered to the United States from the RCMP, its partner in  
22 the investigation.  
23

24 **B. The detention of Juan Zambrano was unlawful.**  
25

26 The Government argues that the RCMP seizure of the Mercedes and its  
27 occupants on August 26, 2015 was legal because they violated IRPA by concealing  
28 individuals into the country without going through the proper immigration channels.  
29

1 The Defendant submits that there was no evidence to support this at the time of  
2 the stop.

3 The investigating agents had no information where the additional three  
4 occupants of the Mercedes came from. No information was identified as to whether  
5 there is a legal border crossing in the area. Whether these individuals came from  
6 another car that had crossed the border legally days or weeks previously. Whether the  
7 individuals were picked up from a residence or whether they were themselves  
8 Canadian citizens.  
9

10  
11 No information existed at the time of the stop that the occupants were not  
12 legally in Canada.

13 For these reasons Mr. Zambrano requests all evidence obtained from him  
14 pursuant to the unlawful stop and seizure on August 26, 2015, including his  
15 identification, be suppressed.  
16

17 DATED this 27th day of February, 2018.  
18

19  
20 Presented by: *Smith Law Firm*

21  
22 /s/ RICHARD A. SMITH  
23 RICHARD A. SMITH, WSBA 15127  
24 Attorney for Defendant Zambrano  
25 314 North Second Street  
26 Yakima, WA 98901  
27 rasmith@house314.com  
28 Phone: (509) 457-5108  
29 Fax: (509) 452-4601

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury of the laws of the State of Washington that on February 27, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Stephanie A. Van Marter, Assistant United States Attorney.

/s/ Lugene M. Borba

LUGENE M. BORBA